



Town of Lexington

PLANNING BOARD

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GRANT OF SPECIAL PERMIT 495 LOWELL STREET

Date of Application: September 25, 2013
Date of Hearing: November 6, 2013
Date of Decision: November 6, 2013
Date Filed: November 19, 2013

APPLICATION INFORMATION

The property, 495 Lowell Street, shown as lots 52 and 53 on Town Assessors Map 61, is located in the RO Residential Zoning District and contains approximately 1.8 acres. The plan, entitled "495 Lowell Street Balanced Housing Development Definitive Subdivision Plan Set", dated September 24, 2013, proposes the demolition of the existing single-family structure, and the construction of four new homes, served by two common driveways.

DECISION

The Planning Board hereby determines that the subject property is a proper parcel to be developed as a Balanced Housing Development, as described under §135-45D of the Lexington Zoning By-Law and that it meets all requisite criteria for such approval. It therefore **GRANTS** a Special Permit for the development in accordance with the plans, terms, and conditions stated below.

FINDINGS & DETERMINATIONS

The plans and other submission material were reviewed by the Planning Board, the Town's Engineering Division, and the Planning staff. Throughout its deliberations, the Planning Board has been mindful of the statements of the Applicant and its representatives, and the comments of the public, all as submitted or made at the public hearing.

The Planning Board finds and determines that the proposed development meets the criteria, objectives, and standards set forth in §135-9.4.2 of the Zoning Bylaw. Beyond those standards, the Planning Board must also determine that the proposed development is consistent with the criteria specific to those for a special permit residential development, enumerated in §135-6.9.19 of the Bylaw. The Planning Board has considered all of these criteria and will impose conditions on its approval.

Specific Findings & Determinations, per §135-6.9.19

The Planning Board grants the special permit for a Balanced Housing Development because it has determined that the proposed development is consistent with the standards expressed in §135-6.9.19 that are applicable to this project, specifically:

- **Open Space.** The proposal includes 26,063± SF of open space, which exceeds the Zoning Bylaw's open space requirement of 33% of the development tract. This space increases the visual appearance of the development, and will be readily accessible and usable to the future residents.
- **Building Disposition.** Considerable attention was given to the proposed dwellings and their location within the site and how they should create a complementary relationship with each other, as well as the abutting homes along Lowell Street.
- **Visual Impacts.** Similar to the point above, significant care was given to the front yard landscaping, and how it could enhance the Lowell Street streetscape. Beyond this, the plans call for an appropriate amount of privacy screen between the two adjacent properties.
- **Common Facilities.** This decision is conditioned to require the Applicant to create a Home Owner's Association that will make the lot unit owners responsible for the operation and maintenance of the open space and the drainage system.
- **Sustainability.** Through the imposition of gross floor area and impervious surface limits, Balanced Housing Developments may not exceed those that would be found within a conventional subdivision on the same site. Land disturbance and tree removal are similarly less intensive than the conventional alternative, by avoiding the tract's most sensitive areas.

WAIVERS

It is implicit and understood that in a Balanced Housing Development many of the requirements contained in the Planning Board's *Development Regulations* applicable to a conventional subdivision layout and design of ways and lot platting do not apply. Therefore the Board waives strict compliance with the specific provisions, listed below, that pertain to conventional subdivisions, as strict compliance does not serve the public interest and would be inconsistent with the creation of a Balanced Housing Development and the intent and purpose of the Board's rules.

Required Standard	Explanation
§175-11A.(3)(a)[7], Property Rights Plan: The proposed distance, in feet, between buildings.	With the exception of a specified minimum between the structures on Lots B and C (see Special Condition 2) only proposed building envelopes are shown on the plan.
§175-11A.(3)(a)[9], Property Rights Plan: If applicable, a metes and bounds description.	Not applicable when lots are shown on a Property Rights Plan.

Required Standard	Explanation
§175-11A.(4)(a), Site Construction Plan: The location of existing and proposed new buildings.	Proposed building footprints are omitted to provide flexibility in the location and design of the buildings.
§175-11A.(7)(b), Landscaping Plan: Showing existing and proposed building footprints.	Proposed building footprints are omitted to provide flexibility in the location and design of the buildings.

TREE BYLAW

As the Board believes that the proposed treatment of trees within the development tract is appropriate for the site's context and superior to a simple application of the Tree Bylaw, the Board waives the Tree Bylaw in full. Should, however, the project deviate from the proposed plan, mitigation consistent with §120-8C of Tree Bylaw must be applied.

TERMS & CONDITIONS OF APPROVAL

General Terms

1. The entire tract of land and buildings to be constructed may not be used, sold, transferred, or leased except:
 - a. As granted by this Decision;
 - b. As shown on the Definitive Site Development Plan, referenced above; and
 - c. In accordance with subsequent approved plans or amendments to this Decision.
2. If any amendment is sought to this Decision all relevant plans and information must be submitted as required by the applicable rules.
3. Each residential deed must contain the following provision: "The construction and operation of the development is governed by a Special Permit issued by the Lexington Planning Board on November 6, 2013, a copy of which is available for inspection at the Town Clerk's Office, Town Office Building, 1625 Massachusetts Avenue, Lexington, MA."
4. The terms and conditions of this decision must be enforced by the residential homeowners to the extent necessary to comply, including if necessary any proceeding at law or in equity against any person or persons violating or attempting to violate any such condition or restriction, either to restrain the violation or to recover damages. If the residential homeowners, or any association established by them, fail to enforce said conditions and/or restrictions, any one owner, or the Town of Lexington, may bring a proceeding at law or in equity against any person, persons, or association in violation thereof to enforce compliance with said conditions and/or restrictions. Each deed or any association instrument, as applicable, must contain a provision with the foregoing language therein.
5. No site preparation work or construction may commence until the Planning Department has confirmed in writing that the following conditions have been satisfied:
 - a. The approved perimeter Limit of Work (LOW) line is clearly marked with construction fencing, hay bales, silt fencing, or approved substitute, as appropriate. Construction activity outside the LOW is strictly prohibited, except to allow for minor landscaping

activities when approved by the Planning Department in advance. All protective fencing and LOW lines must be maintained until all construction is complete.

- b. Trees slated for preservation must be protected from damage or loss by construction activities by the use of construction fencing or protective barricades established at a distance from the trunk equal to five times the diameter of the trunk.
6. No work, including site preparation, land disturbance, construction, and redevelopment, may commence unless and until pollution prevention, erosion and sediment controls are in place. If and when applicable, the Stormwater Pollution Plan required by the National Discharge Elimination System Construction General Permit Program, must be implemented until the site is fully stabilized.
7. Hours of construction. No construction activity on the property which causes noise, vibrations, glare, dust, debris or other detrimental impact, and is perceptible on, or affects, any adjacent lots, may take place prior to 7:00 a.m. or after 7:30 p.m.
8. This Decision is not intended to interfere with, abrogate or annul any other local bylaw, rule or regulation, statute, or other provision of law.

Special Conditions

1. The Site Construction Plan must be recorded with the decision (and when required, registered with the Land Court), showing the preservation of the 16" oak in the back left corner of Lot B and correcting any discrepancies in the floor area and impervious surface coverage limits noted by the Planning Department in its staff memos.
2. In addition to the development envelopes and conceptual footprints shown on the Site Construction Plan, there must be at least 45 feet between the foundations of the structures on Lots B and C.
3. The Applicant will work with both the Planning and Conservation staffs on an invasive species management plan for Lot A and the common open space parcel, which may allow, in limited instances, work beyond the limit of work line shown on the Site Construction Plan.
4. In addition to the sidewalk shown on the plans, the Applicant must extend this sidewalk to Fulton Road (to the nearest existing crosswalk). The Applicant must produce design plans for the entire sidewalk improvement plan, in sufficient detail to satisfy the Engineering Division, including any details on tree removal and potential obstructions, such as hydrants or utility poles, which may frustrate the performance of this condition.
5. Lowell Street must be milled, curb to curb, extending 50 feet beyond the limits of the outermost cuts and overlaid with 1.5 inch bituminous top course with tack coat.
6. All conveyances of deeds must include the maximum gross floor area and impervious surface limits associated with each lot, subject to the prior approval of the Planning Department staff.
7. No building permit may be issued for new construction until the Planning Department indicates that Town counsel has approved the final form of the following documents:
 - a. The various utility maintenance easements; and
 - b. The homeowner's association (or similar entity), including the operation and maintenance responsibilities requirements for the private stormwater facilities.

8. No certificate of occupancy permit may be issued for any new dwelling until the Planning Department indicates that:
 - a. The final grading and landscaping of the parcel is completed, as demonstrated by an as-built plan. Provided, the Planning Department may accept security sufficient to ensure the performance of this condition, in accordance with §175-56B(9); and
 - b. The DPW has received the appropriate sewer and water tie-in information on any unit for which a CO is sought; and
 - c. The record drawings (as-builts) of the sewer and water mains have been provided to the Department of Public Works (DPW), unless waived in writing, by the DPW Director.

GRANT OF SPECIAL PERMIT
495 LOWELL STREET
November 19, 2013
Page 6 of 6

RECORD OF VOTE

The following members of the Planning Board vote to grant a special permit, subject to the above-stated terms and conditions:

Copy of Decision to:

Applicant (by Certified Mail)
Board of Health
Conservation Commission
Police Chief
Director of Public Works

Town Clerk
Building Commissioner
Fire Chief
Town Assessor
Revenue Officer